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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/576,290	07/17/2006	Matthew Richard Alex Nye-Hingston	P71241US0	9388

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EXAMINER

ESTREMSKY, GARY WAYNE

ART UNIT	PAPER NUMBER
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3673

MAIL DATE	DELIVERY MODE
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01/15/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/576,290	NYE-HINGSTON ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Gary Estremsky	3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-36 and 40-43 is/are rejected.
- 7) ☒ Claim(s) 37-39 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                                                                 |                                                                                         |
|---------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                            | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>hereto</u> . | 6) <input type="checkbox"/> Other: ____.                                                |

## DETAILED ACTION

### *Claim Objections*

1. Claims 7, 18, and 27 are objected to because of the following informalities:
2. claim 7; "in" should be replaced with --is--.
3. claim 18; "said" should be replaced with --a—since "ramp" does not have antecedent basis in the claim.
4. claim 27; --said-- should be inserted before "latch". Claim 27 should end with a period, ---.
5. Appropriate correction is required.

### *Drawings*

6. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "interference means is in rotational engagement with the portion fixed" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet,

and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

8. Claim 6 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. One of ordinary skill in the art is not enabled by the original disclosure to make and use the invention of claim 6 due to lack of description and/or illustration of specific structure for accomplishing same.

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claims 1-29 and 40-43 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

11. It's not clear how to interpret the alternative limitation(s) of claim 1; line 19-20; "said latch bolt including means,..., or is positioned to urge said bolt" due to missing words or grammar problem.

12. Additionally as regards claim 29, it's not clear if elements inside of parenthesis are required as part of the invention or not whereby scope of invention is not well defined.

### ***Claim Rejections - 35 USC § 102***

13. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

14. Claims 1 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 1,097,154 to Wright.

15. Wright '154 teaches Applicant's claim limitations including : a "latch bolt assembly" - 7

***Claim Rejections - 35 USC § 103***

16. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

17. Claims 1-23 and 27-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 6,082,790 to Mossotti and U.S. Pat. No. 7,246,827 to Geringer.

Mossoti '790 teaches a striker (for use with a door having a retractable latchbolt 13) as shown on face of the Patent but doesn't illustrate all limitations for the claimed latchbolt. Geringer '827 teaches all limitations for the latchbolt. It would have been obvious to one of ordinary skill in the art at the time of the invention to use the two disclosed devices together in order to attain the disclosed benefits of each as might be desired. One of ordinary skill in the art would have more than a reasonable expectation of success since both devices are intended for use with structure as shown by the other. Preamble recitation of "cabinet" does not further define any particular structure of the claimed invention that might be relied upon to patentably distinguish from the prior art which teaches all claim structure. It has been held that a preamble is denied the effect of a limitation where the claim is drawn to a structure and the portion of the claim following the preamble is a self-contained description of the structure not depending for completeness upon the introductory clause. *Kropa v. Robie*, 88 USPQ 478 (CCPA 1951).

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18. As regards claim 5, inasmuch as no spacer is provided between 25,27, the parts are inherently in sliding engagement.

19. Although the reference doesn't disclose particulars of the power provision, it would have been an obvious design choice or engineering expedient for one of ordinary skill in the art at the time of the invention to provide the latch with power supply from the building to avoid problems otherwise associated with batteries.

20. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the latchbolt device to be hardwired with a card reader or other similar remote device comprising switch for operating the latch where examiner takes Official Notice that such devices are well known in the art for use with motor-operated latches.

21. As regards claim 27, it would have been an obvious design choice or engineering expedient for one of ordinary skill in the art at the time of the invention to provide the latch of the reference with a second terminal for providing power to other similar application lock in a building having multiple doors where examiner takes Official Notice that it is well known in the art to provide power from one device to another via terminals as part of a circuit. One of ordinary skill in the art would have more than a reasonable expectation of success since the proposed modification would not otherwise affect function of the latchbolt.

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22. Claims 30-36 and 40-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 6,082,790 to Mossotti and U.S. Pat. No. 7,246,827 to Geringer and further in view of U.S. Pat. No. 7,113,071 to Cayne.

23. Although Mossotti '790 and Geringer '071 appear to be embodied in use with a passage door, Cayne '071 discloses that it's well known to provide electric locking on a multiple cabinet assembly. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the latch of Mossotti '790, as modified, on cabinet system as taught by Cayne '071 so as to take advantage of the latch assemblies' many disclosed features in a cabinet system. One of ordinary skill in the art would have more than a reasonable expectation of success since providing the latches on cabinets would not otherwise affect function of the arrangement.

24. Claims 1-5, 7-10, 14, and 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 1,097,154 to Wright.

25. Although Wright '154 discloses a bolt 7, it's not clear if it has automatic latch function attributed to "latchbolt". However, the examiner takes Official Notice that it's well known in the art to provide locking latchbolts whereby it would have been obvious to one of ordinary skill in the art to use the disclosed device with a locking spring-biased latchbolt for the reasons explicitly provided by the reference, the function of a locking latchbolt not otherwise affecting the function of the device of Wright '154.

26. As regards claim 7, due to the structure and arrangement of the device of the reference, it can inherently be pressed in manually.



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27. As regards claim 10, inwardly positioned, the interference means of the reference defines bottom wall of the aperture.

28. As regards claim 18, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the strike with a ramp for guiding the latchbolt of the modified arrangement where examiner takes Official Notice that such structure is well known in the art for that purpose.

### ***Allowable Subject Matter***

29. Claims 37-39 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

30. Claims 25 and 26 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

31. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

32. U.S. Pat. No. 5,096,241 to Badger.

33. U.S. Pat. No. 6,068,305 to Myers.

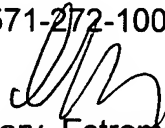
34. U.S. Pat. No. 7,048,312 to Brunner.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Estremsky whose telephone number is 571 272-7055. The examiner can normally be reached on T,W,Th,F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Engle can be reached on 571 272-6660. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Gary Estremsky  
Primary Examiner  
Art Unit 3673